

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSE CLAUDIO,

Docket No. 17-cv-3791

Plaintiff,

-against-

**NOTICE OF REMOVAL**

DOUGERT MANAGEMENT CORP.,  
ERIC VAZQUEZ, MARIO COLLAZO, and  
JOSE MALDONADO

Defendants.

-----X

TO: CLERK  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

CLERK  
Supreme Court of the State of New York  
County of Bronx  
851 Grand Concourse  
Bronx, NY 10451

LEVINE & BLIT, P.L.L.C.  
Russell Moriarty, Esq.  
350 Fifth Avenue, Suite 4020  
New York, NY 10118  
*Attorneys for Plaintiff*

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1441 *et seq.* each of the above-named defendants, through their attorneys, Tilton Beldner LLP and Goldberger and Weinberger, LLP, hereby remove the New York State Supreme Court action described below to the United States District Court for the Southern District of New York on the following grounds:

1. The plaintiff named in the caption above has commenced an action in the Supreme Court of the State of New York, County of Bronx, entitled *Jose Claudio v. Dougert Management Corp., Eric Vazquez, Mario Collazo and Jose Maldonado*, index number 23081/2017E (State Court Action). A copy of the summons and complaint in the State Court Action is annexed hereto as Exhibit 1, which constitutes all the process, pleadings and orders Defendants have received with respect to the State Court Action. Plaintiff attempted service of the summons and complaint in the State Court Action on or about May 4, 2017. Defendants dispute that service was proper; however, defendants hereby waive service of process of the State Court Action. Defendants have not filed an answer, motion against the complaint, or otherwise responded to same in the State Court Action. This Notice of Removal is being filed within 30 days of the attempted service of the Summons and Complaint. All Defendants join in this removal petition.
2. Removal of the State Court Action to this Court is warranted by 28 U.S.C. § 1441(a) because this suit is one over which this Court has original jurisdiction under 28 U.S.C. § 1331 as it is based, *inter alia*, on a claim or right arising under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et seq.* Additionally, pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's state law claims under the New York Labor Law. 28 U.S.C. § 1367(a) provides, in relevant part, that "in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original

jurisdiction that they form a part of the same case or controversy.” Plaintiff’s state and federal claims all related to Defendants’ alleged underpayment of overtime wages to Plaintiff while Plaintiff was allegedly an employee of Defendants; therefore, Defendants request that the Court assert supplemental jurisdiction over Plaintiff’s state law claims.

3. Venue lies in the United States District Court for the Southern District of New York because the State Court Action was filed in this district. 28 U.S.C. § 1441(a).
4. As required by 28 U.S.C. § 1446(d), Defendants are serving a copy of this Notice of Removal on Plaintiff and providing a copy to the Clerk of the Supreme Court of the State of New York, Bronx County.

WHEREFORE, Defendants submit this Notice of Removal of this action from the Supreme Court of the State of New York, Bronx County, to the United States District Court for the Southern District of New York and pray this action stand so removed.

Dated: Uniondale, NY  
May 19, 2017

Respectfully submitted,

\_\_\_\_s/  
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